



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.23737 of 2019

and

W.M.P(MD)Nos.20326 & 20328 of 2019

WEB COPY

V.Poovalingam

... Petitioner

Vs.

- 1.The Additional Chief Secretary to
Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Fort St. George, Secretariat,
Chennai-600 009.
- 2.The Director of Rural Development and
Panchayat Raj,
Chennai.
- 3.The District Collector,
Madurai District, Madurai.
- 4.The Assistant Director of Town Panchayat,
Madurai Region,
Madurai-625 020.
- 5.The Executive Officer,
Sholavandan Town Panchayat,
Sholavandan,
Madurai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned Notification dated 24.10.2019 pertaining to calling application for eligible candidates for the post of Driver in Sholavandan Town Panchayat covered in Sl.No.3 (horizontal Sl.No.4) published in 'Dinamani' News paper dated 01.11.2019 and quash the same as illegal and contrary to the Government order in G.O.Ms.No.37, Municipal Administration and Water Supply (TP 1) Department dated 01.02.2011 and consequently direct the third to 5th respondents to draw appropriate panel Consisting of eligible persons possessing requisite qualification who are serving in the non-standardized posts in Public sanitation, water supply, street light maintenance and since no one serving in such posts in



Sholavandan Town Panchayat is possessing the requisite qualification, appoint the petitioner who is serving as sweeper in the non standardized service of Town Panchayat, Sholavandan on promotion as per the Government Order in G.O.Ms.No.37, Municipal Administration and Water Supply (TP 1) Department dated 01.02.2011.

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For Petitioners : Mr.AL.Kannan
For R1 to R4 : Mr.S.Dhayalan,
Government Advocate
For R5 : Mr.Rajarajan,
Government Advocate

ORDER

This writ petition is filed challenging the Notification dated 24.10.2019 calling application from eligible candidates for the post of Driver in Sholavandan Town Panchayat, covered in Sl.No.3 (horizontal Sl.No.4) published in 'Dinamani' News paper, dated 01.11.2019 and quash the same as illegal and contrary to the Government order in G.O.Ms.No.37, Municipal Administration and Water Supply (TP 1) Department dated 01.02.2011 and other reliefs.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocates appearing for the respondents and perused the materials available on record.

3. The petitioner is working as Sweeper in the fifth respondent Town Panchayat. He has passed +2 and possessing heavy vehicle driving licence and he is fully qualified to be promoted as Driver in the fifth respondent Panchayat as per G.O.Ms.No.37, Municipal Administration and Water Supply (TP 1) Department, dated 01.02.2011. The learned counsel appearing for the petitioner referred to the relevant portion of the said G.O.Ms.No.37. The petitioner was expecting to be promoted as driver by the fifth respondent. Therefore, the petitioner gave a representation to the respondents. The fifth respondent has not promoted the petitioner as Driver. While so, the fourth respondent issued impugned Notification, calling for application for appointment by direct recruitment for various posts mentioned therein, including the post of Driver in the fifth respondent Town Panchayat. On seeing the Notification, again the petitioner gave representation referring to G.O.Ms.No.37 to the fifth respondent, for promoting him to the post of Driver. The said representation was not considered by the fifth respondent, hence, the petitioner has come out with the present writ petition.

4. The fifth respondent filed counter affidavit. Mr.Rajarajan, learned counsel appearing for the fifth respondent submitted that as per G.O.Ms.No.37, a person possessing heavy vehicle driving licence with pass in 10th Standard will be considered for the post of Driver. In the present case, the petitioner has passed +2 and possessed



heavy vehicle driving licence and his representation will be considered as per G.O.Ms.No.37.

5. From the above contentions and perusal of G.O.Ms.No.37, dated 01.02.2011, it is seen that the employees, who are working as Office Assistant or NMR possessing 8th Standard along with driving licence, can be promoted as Driver in the respective Town Panchayat. The petitioner gave representation to promote him as Driver. The fifth respondent has not passed any orders on the representation of the petitioner so far. The fourth respondent, without considering G.O.Ms.No.37, dated 01.02.2011 and the representation of the petitioner, called for application for direct recruitment for appointment of Driver in the fifth respondent Town Panchayat. The respondents 4 and 5 are bound to consider and pass orders on the representation before resorting to seek application for appointment of Driver by direct recruitment. Now, the fifth respondent has filed counter affidavit and considering the averments made in the counter affidavit of the fifth respondent and submission of the Government Advocate, the fifth respondent is directed to consider the representation of the petitioner and pass orders, within a period of four weeks from the date of receipt of a copy of this order. Till the orders are passed on the representation of the petitioner, the respondents 4 & 5 are restrained from appointing any person as Driver in the fifth respondent Town Panchayat, by direct recruitment. If the petitioner is found eligible, to promote him as Driver.

6. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (w)

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Sub Assistant Registrar(CS)

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To

1.The Additional Chief Secretary to
Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Fort St. George, Secretariat,
Chennai-600 009.



2.The Director of Rural Development and
Panchayat Raj,
Chennai.

3.The District Collector,
Madurai District, Madurai.

4.The Assistant Director of Town Panchayat,
Madurai Region,
Madurai-625 020.

5.The Executive Officer,
Sholavandan Town Panchayat,
Sholavandan,
Madurai District.

+1 CC to M/s.SPL GP (SR-101507[F] dated 26/11/2019)

+1 CC to M/s.AL. KANNAN, Advocate (SR-101858[F] dated 27/11/2019)

W.P. (MD) No.23737 of 2019
25.11.2019

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